



Metropolitan Police Department
Office of Professional Responsibility
Civil Rights & Force Investigations Division
MOA Compliance Monitoring Team



Metropolitan Police Department
and
U. S. Department of Justice

Memorandum of Agreement
Progress Report



OCTOBER 10, 2003

The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.

– Reverend Martin Luther King, Jr.

Introduction

In January 1999, Chief Ramsey and District of Columbia Mayor Anthony Williams asked the United States Department of Justice to review the Metropolitan Police Department's (MPD) practices as they related to police use of force. In March 2001, the U.S. Department of Justice (DOJ) concluded its review, and later entered into a Memorandum of Agreement (MOA) with the District of Columbia and the Metropolitan Police Department on June 13, 2001. The Agreement built upon the work MPD started during the course of the review, and provided that an Independent Monitor would evaluate the implementation of the Agreement. When the balance of the reforms contained in the Agreement are implemented, the Metropolitan Police Department will be a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

This progress report is the seventh submitted by the Department's Compliance Monitoring Team (CMT). The Compliance Monitoring Team, part of the Office of Professional Responsibility (OPR), was created by Chief of Police Charles H. Ramsey to ensure the timely implementation and compliance of the Memorandum of Agreement. This quarterly report reflects MPD's Memorandum of Agreement activity from July 1, 2003, through September 30, 2003.

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MPD's quarterly reports are required by the Memorandum of Agreement (MOA Paragraph 175), and have been designed by the MPD to share its MOA-related activities not only with the U.S. Department of Justice and the Office of the Independent Monitor (OIM), but also throughout the Metropolitan Police Department and the citizenry at large. Furthermore, there is an addendum to this quarterly report that lists all of the MOA's paragraphs and the status of each item.

The Metropolitan Police Department continues to be pleased with the progress made by the Department during this reporting period. The Department focused a great deal of resources this quarter on the Personnel Performance Management System (PPMS). PPMS will be a "a computerized relational database for maintaining, integrating, and

retrieving data necessary for supervision and management of MPD and its personnel.”¹ As a result of those efforts, MPD is pleased to announce that both DOJ and MPD have agreed to a second modification to the MOA.² The purpose of the modification was to negotiate new deadlines for MOA activities related to PPMS. By agreeing to the modification, both MPD and the District of Columbia were discharged from breach status. A copy of modification is included as an appendix to this report.

In addition to the signing of the MOA modification, MPD also made substantial progress in its efforts with PPMS. MPD appointed a Vendor Selection Team who, in cooperation with the City’s Office of Contracting and Procurement (OCP), selected CRISNet Incorporated and IBM to develop PPMS. IBM/CRISNet began work with the Department in September 2003. A more detailed discussion of PPMS activities can be found later in this report.

MPD also worked with the OIM during this quarter in coordinating access to the selected sample of misconduct and use of force investigations. The OIM randomly selected 240 cases to be reviewed in order to assess compliance for use of force and misconduct investigations.³ During this process, the OIM also met with representatives from MPD’s Office of Internal Affairs (OIA), where the files are housed, to discuss file maintenance issues. As a result of those meetings with the OIM, Internal Affairs instituted several reforms including a revised policy for establishing and maintaining the investigation files. These reforms are discussed in more detail in the “Investigations” section of this report.

In addition to the activities discussed above, the Metropolitan Police Department continued approved-policy implementation activities, submitted additional deliverables, revised draft policies and procedures, and continued to work with the Office of Citizen Complaint Review (OCCR) to revise the Memorandum of Understanding (MOU) between the two agencies (MOA Paragraph 85).

The Office of the Independent Monitor has continued to examine various aspects of the MPD in order to document the Department’s progress in MOA related areas. During this quarter, the OIM continued the task of defining of how they will measure “substantial compliance” for the MOA. Paragraph 182 of the MOA states:

“The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years.”

¹ MOA Paragraph 106

² MOA Paragraph 194 reads, “The Parties may jointly agree, in writing, to modify this Agreement.”

³ It should be noted that both Force Investigation Team (FIT) and Office of Citizen Complaint Review (OCCR) cases were not included in the final sample.

The OIM held two very productive meetings this quarter with representatives from both the CMT and DOJ to discuss defining substantial compliance for each of the MOA paragraphs. The OIM completed a draft compliance document that provided proposed compliance definitions for 62 of the 194 MOA paragraphs. The OIM plans to move forward with completing the document, with significant input from both DOJ and MPD, over the coming months. MPD looks forward to this document being issued as it will help to ensure MPD's efforts are focused on ensuring compliance with all paragraphs of the MOA.

The Metropolitan Police Department is proud of its recent Memorandum of Agreement compliance efforts, and is confident that MPD is continuing on its way to becoming a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

Compliance Monitoring Team

The Compliance Monitoring Team (CMT) was created by Chief of Police Charles H. Ramsey in February 2002, to ensure the timely implementation and compliance of the Memorandum of Agreement (MOA). The CMT falls under the Civil Rights & Force Investigations Division, located within the Office of Professional Responsibility. The CMT continued its activities during this reporting period, and coordinated a variety of Memorandum of Agreement efforts. During this quarter, members of the Compliance Monitoring Team also worked closely with the Department's PPMS project leaders and other stakeholders on PPMS-related aspects of the Memorandum of Agreement.

The CMT has continued to provide support to various Department elements to assist them in completing MOA deliverables, and to facilitate compliance documentation. CMT members met with representatives from MPD's Office of Organizational Development to discuss MOA-related general orders. The CMT met with leadership of the Fraternal Order of Police to provide an update on MOA activities and met with the Institute of Police Science (IPS) to discuss MOA training activities. CMT representatives also met with the Office of Citizen Complaint Review (OCCR) to help resolve outstanding issues surrounding the Memorandum of Understanding between MPD and OCCR (MOA paragraph 85). In addition, the CMT remains as the central repository for MPD's Memorandum of Agreement documents, and has been documenting and transmitting draft policies and other deliverables to DOJ and the Office of the Independent Monitor (MOA Paragraph 173).

Finally, the CMT has continued to monitor costs associated with the Office of the Independent Monitor, and maintained its relationship with the D.C. Office of Contracting and Procurement to ensure accountability.

General Orders and Policies

Previously, the U.S. Department of Justice approved several seminal use-of-force related policies. They include:

- Use of Force General Order (MOA Paragraphs 37-40)
- Use of Force Investigations General Order (MOA Paragraph 53)
- Use of Force Incident Report (MOA Paragraph 53)
- Handling of Service Weapons General Order (MOA Paragraphs 41 and 43)
- Canine Teams General Order (MOA Paragraphs 45 and 46)
- Oleoresin Capsicum Spray General Order (MOA Paragraphs 47-50)
- Force Related Duty Status Determination General Order
- Carrying Weapons and Transporting Prisoners Aboard Aircraft General Order
- Use of Force Review Board General Order (MOA Paragraph 67)
- The Office of Internal Affairs Operational Manual (MOA Paragraph 72)

Pending Reengineered Policies

During this reporting period, the Metropolitan Police Department and the U.S. Department of Justice exchanged a variety of detailed correspondence concerning numerous draft Department policies and procedures. They are listed in order of last activity unless otherwise noted. A status matrix containing all of the MOA paragraphs is submitted as an attachment with this report.

MPD submitted a revised version of its approved *Canine Teams General Order* (MOA Paragraphs 45 and 46) to DOJ for review on June 4, 2003. DOJ provided comments on that order on July 25, 2003. In their July 25, 2003 letter, DOJ also promised to provide specific recommended policy revisions that DOJ believes are consistent with the Memorandum of Agreement requirements and the parties' previous agreements. On September 30, 2003, DOJ provided the policy recommendations to guide MPD's revisions of the Canine General Order. MPD is currently reviewing those suggested revisions.

The Metropolitan Police Department submitted a draft *Canine Operations Manual* (MOA Paragraph 147) to DOJ on November 27, 2002. DOJ provided comments on the manual on September 30, 2003. MPD is currently reviewing those comments.

The Metropolitan Police Department submitted a draft plan for a *Community Outreach Program for Filing Citizen Complaints* (MOA Paragraph 91) to DOJ on September 27, 2002. DOJ provided comments on that order on January 31, 2003. MPD provided a revised draft of the order to DOJ on June 30, 2003. DOJ provided comments on the order on August 25, 2003. MPD provided a revised draft to DOJ on September 30, 2003.

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* (MOA Paragraph 118) to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003.

The Metropolitan Police Department submitted a draft *Enhanced Field Training Officer Program Protocol* (MOA Paragraph 121f) to DOJ on December 6, 2002. DOJ provided comments on MPD's protocol on September 30, 2003. MPD is currently reviewing those comments.

The Metropolitan Police Department submitted a draft *Serious Misconduct Investigations General Order* (MOA Paragraph 72) to DOJ on July 23, 2002. DOJ replied with detailed comments on September 13, 2002, and MPD submitted a revised draft to DOJ on November 22, 2002. DOJ replied with comments on January 31, 2003, and MPD submitted a revised draft to DOJ on March 7, 2003. DOJ responded to the revised order on August 25, 2003. MPD responded to DOJ's comments and provided a revised order on September 30, 2003.

In addition, on November 27, 2002, MPD submitted a draft plan to limit the number of hours worked by MPD officers in any 24-hour period and in any seven-day period (MOA Paragraph 159). The MOA notes that all parties acknowledge that the implementation of such a policy may consider any limitations related to labor agreements. Since the submission of the plan, MPD has developed a draft general order. On September 30, 2003 DOJ requested a status update on progress with that order. MPD is currently working on a response to DOJ's request.

The Metropolitan Police Department submitted the *Force Investigation Team Operational Manual* (MOA Paragraph 57) to DOJ on February 5, 2002. DOJ replied with detailed comments on August 12, 2002. MPD submitted a revised draft to DOJ on November 1, 2002. DOJ provided additional comments on March 26, 2003. MPD provided an updated draft on April 21, 2003. DOJ provided comments on the FIT Manual on August 25, 2003. MPD provided a revised copy of the manual, incorporating all of DOJ's comments, on September 29, 2003.

DOJ provided comments on the draft Discipline Order on August 25, 2003. MPD is reviewing those comments in consultation with the FOP.

A draft *Disciplinary Policy* (MOA Paragraph 105) was submitted to DOJ for review on May 19, 2003. It is noted that the draft policy was due to DOJ during the renegotiated period of the week of November 17, 2002. However, as previously reported, MPD shared a draft of the order with the Fraternal Order of Police (FOP) for comment. Prior to November 17, 2002, the FOP indicated that they had concerns with aspects of the draft order. MPD notified DOJ of those concerns and chose to delay the submission of

the draft order to address the FOP's concerns. MPD believes that the interaction with the FOP has been beneficial, and that addressing many of the FOP's concerns now will ease implementation efforts once the final draft is approved. DOJ provided comments on the draft Discipline Order on August 25, 2003. MPD is reviewing those comments in consultation with the FOP.

The Metropolitan Police Department submitted a draft *Specialized Mission Units General Order* (MOA Paragraphs 149-158) to DOJ on October 4, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided a revised draft of the order on June 30, 2003. DOJ provided comments on the order on August 25, 2003. MPD is currently working on incorporating those comments.

The Metropolitan Police Department submitted a draft *Administrative Investigations Manual* (MOA Paragraph 83) to DOJ on October 25, 2002. DOJ provided comments on the Manual on March 26, 2003. MPD is currently working on incorporating those comments.

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations General Order* (MOA Paragraph 83) to DOJ on November 1, 2002. DOJ provided comments on the order on January 31, 2003. MPD is currently working on incorporating those comments into the order.

The Metropolitan Police Department submitted a draft *Citizen Complaint General Order* (MOA Paragraph 94) to DOJ on October 4, 2002. DOJ replied with detailed comments on November 25, 2002. MPD forwarded the draft to the District of Columbia Office of Citizen Complaint Review (OCCR) on December 27, 2002. The Office of Citizen Complaint Review provided their comments to MPD on January 17, 2003. MPD is currently working on incorporating their comments. It is noted there continues to be extensive interaction between the MPD and OCCR during this quarter. This interaction is described later in this report.

MPD is also working on the completion of a policy to address the amendment approved by the District of Columbia City Council that permits MPD's Chief of Police to designate his own policy as to when off-duty officers are required to carry their service pistols in the City (MOA Paragraph 42). The amendment, entitled the "Off-Duty Service Pistol Authorization Amendment Act of 2002," was contained in the Fiscal Year 2003 Budget Support Act of 2002 and became law on October 1, 2002. MPD is working on finalizing its policy so that it can be issued to the MPD members.

Timelines

In September 2002, the Metropolitan Police Department and the U.S. Department of Justice negotiated new deliverable timelines and agreed to a modification of the MOA. The timeline issues excluded from the first modification were the dates that applied to

the Personnel Performance Management System (PPMS). As discussed in the last quarterly report, Chief Ramsey implemented major changes within the Department's Office of Information Technology, and appointed new executives to spearhead the PPMS project. Both MPD and DOJ worked diligently this quarter to renegotiate the outstanding deadlines surrounding the PPMS-related deliverables of the MOA, and on September 30, 2003, a second modification to the MOA was signed. An updated status of the PPMS project is included later in this report.

Use of Force Incident Report

As previously reported, the development and implementation of the Use of Force Incident Report (UFIR) raised numerous issues for the Metropolitan Police Department.

The UFIR form continued to raise concerns among the Fraternal Order of Police and the rank and file. In the early stages of implementation, MPD had engaged in several activities to inform members about the form and its purpose. However, most members involved in a force incident (or a pointing of a firearm at a person) declined to fill out the form until a declination was issued by the U.S. Attorney's Office for the District of Columbia (USAO) or a "Reverse-Garrity" warning was authorized.

MPD realized that it needed to develop procedures in order to address this situation. After lengthy consultations with DOJ and the USAO, a new policy was developed in which specified managers of the Force Investigation Team were authorized to issue "Reverse-Garrity" warnings in limited circumstances after designated information was obtained. Further, MPD and the USAO identified specific criteria to be met for a USAO review and "Reverse-Garrity" situations. Since the inception of this policy 26 Reverse-Garrity warnings have been issued. MPD feels this policy helps to ensure the completion of UFIRs.

MPD also continues to provide monthly reports to both DOJ and the OIM regarding use of force incidents and UFIR completion. Both DOJ and the OIM had raised concerns regarding the completion rate for UFIRs. MPD has worked this past quarter to ensure that all UFIRs are completed in a timely manner. MPD has also revised the way in which it reports UFIR completion. Previous to July 2002, MPD reported the number of use of force incidents requiring a UFIR and the number of UFIRs completed. However, these numbers did not take into account cases that were being reviewed by the United States Attorney's Office (USAO). Officers cannot be compelled to provide statements regarding a use of force incident prior to a written criminal declination from the USAO. Accordingly, MPD now includes the number of cases being reviewed by the USAO with its monthly UFIR reports to DOJ and the OIM. MPD's Office of Internal Affairs has also worked with its agents to ensure that they follow up with the police districts regarding completion of UFIRs.

MPD has also been working to revise the UFIR to make it more user-friendly. MPD had obtained feedback from officers that the form, particularly the layout, was complicated and confusing. MPD believed that such confusion contributed to officer frustration with the UFIR. As a result, MPD updated and reformatted the UFIR form, and submitted the proposed form along with a detailed explanation for each proposed change to DOJ on November 20, 2002. On March 19, 2003, the DOJ provided detailed written feedback on the proposed form. MPD is currently assessing the comments and making adjustments to the draft revised form.

Finally, as previously reported, MPD sought to amend the reporting requirements for the UFIR form as it related to select MPD Specialized Units for incidents when multiple members of those units point their service weapon under specific enumerated circumstances. Specifically, MPD is concerned about delays in operational efficiency when numerous members are engaged in specific activity where it is expected that most, if not all members would be pointing their weapons (such as in a high risk warrant situation).

In a letter sent to DOJ on March 5, 2003, MPD proposed that members involved in such an incident would be exempt from having each member complete a UFIR. Instead, a unit manager would complete an "After Action Documentation Report." The Report would consist of a form with a memorandum from the unit manager to the Assistant Chief of the Office of Professional Responsibility thru the Assistant Chief of Operational Services (EAC). The unit manager would have to obtain the OPR CS Number and supply the names of all the officers in accordance with current procedures. DOJ provided a response to this request on August 25, 2003. In their response, DOJ recommended some revisions to the proposed form as well as revisions to the draft Specialized Mission Unit General Order. MPD is currently reviewing those recommendations.

C o m m u n i c a t i o n s & C o m m u n i t y O u t r e a c h

On July 26, 2002, the Metropolitan Police Department Office of Corporate Communications submitted a communications plan to DOJ regarding the Memorandum of Agreement. However, subsequent to that date, new outreach deliverable timelines were agreed upon. A revised communications plan reflecting the new outreach dates was completed and submitted to DOJ on November 1, 2002.

The Metropolitan Police Department Office of Corporate Communications has been the primary generator of MOA-related communications materials and activities. The Command Staff of MPD and the Compliance Monitoring Team have also played an active role in MOA communications activities.

Communication activities have involved both internal and external stakeholders. They have involved sharing information about the MOA, new Department policies and procedures, as well as processes for filing citizen complaints.

The new Citizen Complaints and Use of Force section on the MPDC website launched earlier this year continues to be a source for providing information to the public regarding MPD's efforts.⁴

The MPD continues to embrace the concept of multiple conduits for citizens to file citizen complaints. In addition to traditional complaint reporting methods, citizens can call a toll free telephone number (800-298-4006), email complaints to oprcompl@mpdc.org, fax complaints to (202 727-5116); and hearing impaired stakeholders can file complaints via TDD at 202-898-1454 (MOA paragraph 92). Detailed specific information on how to file a citizen complaint is now available on the MPD website.



MPDC web page on filing citizen complaints

MPD has also been working on *Community Outreach Program for Filing Citizen Complaints Special Order* to establish the procedures to comply with MOA paragraph 91. MOA Paragraph 91 states:

"For the term of this agreement, MPD shall conduct a Community Outreach and Public Information program for each MPD District. The program shall require the following:

- a. to continue at least one open meeting per quarter in each of the patrol service areas for the first year of the Agreement, and one meeting in each patrol service area semi-annually thereafter, to inform the public about the provisions of this Agreement, and the various methods of filing a complaint against an officer. At least one week before such meetings the City shall publish notice of the meeting (i) in public areas, including libraries, schools, grocery stores, community centers; (ii) taking into account the diversity in language and ethnicity of the area's residents; (iii) on the City and*

⁴ http://www.mpdc.dc.gov/serv/citizencomplaints/file_complaint.shtm

MPD website; and (iv) in the primary languages spoken by the communities located in such area.

b. the open public meetings described above shall continue to include presentations and information on MPD and MPD operations in order to enhance interaction between officers and community members in daily policing activities."

On September 3, 2003 MPD's Office of Corporate Communications held a meeting to discuss the issues necessary for implementing the order. Representatives from the CMT, the Office for Policing for Prevention, and the Office of Corporate Communications were present. Lieutenants from several police districts were also at the meeting to provide an operational perspective. At the meeting, attendees reviewed the draft general order as well as a draft presentation that has been developed for use at the patrol service area (PSA) meetings. Possible training for lieutenants was also discussed in order to ensure that a consistent and accurate message regarding citizen complaints and the MOA is delivered at each of the meetings. During the next quarter, the group will be working with the Institute of Police Science (IPS) to discuss appropriate training.

During this quarter, DOJ also provided additional comments on the *Community Outreach Program for Filing Citizen Complaints Special Order* on August 25, 2003. MPD provided a response to those comments as well as a revised order on September 30, 2003. As stated above, the order will establish procedures and a schedule for conducting meetings with the public that address both the MOA as well as the citizen complaint process. MPD looks forward to DOJ's comments on the order.

Office of Citizen Complaint Review (OCCR)

In the District of Columbia, the investigation of MPD police officers involves both the Metropolitan Police Department and the Office of Citizen Complaint Review (OCCR). The District government enacted a law in 1999 establishing the Office of Citizen Complaint Review (OCCR) and the governing Citizen Complaint Review Board (CCRB). The mission of OCCR is to investigate, settle and adjudicate complaints of misconduct filed by the public against officers of the Metropolitan Police Department in an independent, fair and timely manner.

Previously, a Memorandum of Understanding (MOU) was signed by representatives of both agencies on September 28, 2002. The MOU addressed information sharing, training, complaint intake & referral, witness interviews, and other items. Additionally, MPD has included information and links to the OCCR on its website, and has included information about the OCCR in its printed materials.

It is noted that DOJ and the OIM have identified conflicts within the Memorandum of Understanding that do not comport with enumerated requirements in the MPD-DOJ

Memorandum of Agreement. Further, many jurisdictional and process disagreements remained between the agencies, despite the signing of the Memorandum of Understanding.

During this quarter, representatives from each agency continued meetings to finalize the revised Memorandum of Understanding and to discuss outstanding issues. The agencies met several times during the last quarter and both MPD and OCCR feel that the meetings were very productive. Both agencies were able to agree to a number of revisions to the MOU, including in the areas of information exchange and training for OCCR investigators. MPD is confident that these revisions will result in an MOU that fully comports with the Memorandum of Agreement and that creates a solid blueprint for the agencies' exchange of information.

MPD has agreed to provide special training on use of force to members of the Citizen Complaint Review Board and to OCCR Complaint Examiners.

During this quarter OCCR met with MPD's Institute of Police Science (IPS) to discuss OCCR training issues. Specifically, MPD and OCCR met on August 13, 2003 and September 10, 2003 to discuss the MOU training requirements. MPD has requested that the training requirements be modified to require two 16-hour training sessions for OCCR investigators a year.

OCCR has requested special training on use of force for the Citizen Complaint Review Board (CCRB)⁵ and for the OCCR complaint examiners. Because the complaint examiners are responsible for reaching the final decisions regarding complaints against police officers, OCCR feels that it is extremely important that they receive training regarding use of force from the police perspective. Because use of force is unique to police work, and the CCRB members and complaint examiners are less likely to have been exposed to the relevant issues, OCCR feels this training will be very useful. Accordingly, OCCR has requested that this special session provide an introduction to MPD's use of force policies that touches on the following specific issues:

- MPD's Use of Force Continuum
- Types of use of force and weapons available to officers
- Relevant considerations and factors when an officer determines the appropriate level of force
- The MPD general orders that govern different types of use of force
- Tactical demonstrations and an opportunity for the participants to ask questions.

MPD has agreed to provide this training and commends OCCR for attempting to ensure that CCRB members and complaint examiners have a comprehensive understanding of use of force issues.

⁵ The Citizen Complaint Review Board is responsible for the oversight of OCCR.

IPS and OCCR also discussed a draft curriculum for fiscal year 2004 for OCCR investigators as well as the possibility of OCCR observing tactical portions of MPD recruit training. MPD feels the meetings held this quarter between IPS and OCCR have been very beneficial and will help to ensure that both agencies meet the mandates of the Memorandum of Understanding between the two agencies as well as the MOA.

During this quarter, MPD and OCCR have also been working with MPD's Court Liaison Division to automate the notification of officers regarding required OCCR appearances. The Court Liaison Division has confirmed that OCCR will be able to use MPD's court notification system (CANS) for notifying officers of OCCR appearances. MPD and OCCR are in the process of finalizing written procedures MPD feels that OCCR's use of the MPD's CANS systems will greatly streamline the current notification process and will also increase accountability.

Both agencies have worked hard this quarter to revise the MOU, and to improve communication between the two agencies. MPD and OCCR have agreed to meet in early October to finalize the MOU for submission to DOJ.

I n v e s t i g a t i o n s

Use of force and police officer misconduct investigations fall under the purview of the Office of Professional Responsibility (OPR). OPR determines which MPD unit will be responsible for the investigation of specific incidents. Within OPR, there are two primary organizational elements that conduct investigations: the Force Investigation Team (FIT) and the Office of Internal Affairs (OIA). The Force Investigation Team is responsible for the investigation of serious use of force incidents as well as use of force incidents indicating potential criminal conduct (MOA paragraph 61). Other use of force incidents are investigated by the member's chain of command officials and are referred to as "Chain of Command Force Investigations." The Office of Internal Affairs is responsible for investigating allegations of "serious misconduct" as defined in MOA paragraphs 72 and 73. Other allegations of misconduct are investigated by the member's chain of command officials and are referred to as "Chain of Command Misconduct Investigations."

Use of Force

Chief of Police Charles H. Ramsey established the Force Investigation Team in January 1999. The Force Investigation Team has evolved into the new national model for police use of force investigations. The team, which took a business-related perspective to force investigations, has been recognized internationally for its high quality investigations and unique approach to use of force issues.

Previously, investigative protocols were established to comply with the requirements of the Memorandum of Agreement. A copy of the revised *Force Investigation Team Organizational Plan and Operations Manual* reflecting these protocols was submitted to the Department of Justice on February 5, 2002, and to the Independent Monitor on April 8, 2002. On August 12, 2002, the MPD received detailed comments from DOJ regarding the FIT operational manual. MPD submitted a revised draft to DOJ on November 1, 2002. On March 26, 2003, DOJ provided MPD with additional comments on the manual. Modifications related to those changes were incorporated into the manual and the manual was resubmitted to DOJ on April 21, 2003. DOJ provided its most recent comments on August 25, 2003. MPD provided a revised version of the manual that incorporated all of DOJ's suggested edits, on September 29, 2003. FIT has worked very hard to provide a comprehensive operations manual that reflects the provisions of the MOA, and MPD looks forward to receiving DOJ approval on this important document. A copy of the September 29, 2003 transmittal letter submitted to DOJ is provided in the appendix of this report.

MPD has taken its FIT preliminary and final investigation templates and modified them for use by chain of command officials for their use of force investigations.

The OIM has found FIT investigations to be of "high quality."⁶ Accordingly, MPD has taken its FIT preliminary and final investigation templates and modified them for use by chain of command officials for their use of force investigations. MPD submitted these templates to DOJ August 26, 2003. While not specifically called for in the MOA, FIT created the templates in an attempt to ensure that all use of force investigations throughout the agency are comprehensive and that they collect the information required by the MOA (primarily MOA Paragraph 65).

MPD's goal is to post the templates on the Department's Intranet as soon as possible so they are accessible to all MPD supervisors. We believe these templates will be a valuable tool for chain of command supervisors in conducting force investigations and helping to ensure that the investigations are consistent and complete. MPD received comments from DOJ on the templates on September 29, 2003. MPD is currently reviewing those comments.

Finally, DOJ provided comments on FIT's training. On September 20, 2002, MPD provided both DOJ and the OIM a summary of the training received by the FIT Team from January 2000-September 20, 2002. The summary was submitted to demonstrate partial compliance with MOA Paragraph 84, specifically, "MPD shall provide specialized training to investigators who conduct shooting investigations." The submission included a summary by year for all FIT investigator training as well as an index containing descriptions of the training events. On September 30, 2003 DOJ

⁶ *Fourth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, April 29, 2003.

provided comments on the FIT training summary. MPD is currently reviewing those comments.

Office of Internal Affairs

As previously reported, MPD's Office of Internal Affairs (OIA) submitted a draft *Office of Internal Affairs Operational Manual* to DOJ on July 26, 2002. DOJ replied with detailed comments on October 17, 2002. MPD submitted a revised draft to DOJ on December 3, 2002. On March 26, 2003, DOJ notified MPD that they had approved the manual. The manual was issued to Office of Internal Affairs investigators and supervisors on April 7, 2003.

It is noted that the Office of the Independent Monitor has been continuously reviewing both FIT and OIA investigative reports. During this quarter, the OIM continued their review of a random selection of misconduct and use of force cases. The investigations have been reviewed by the OIM's police practice experts for compliance with the MOA. The sample consists of 240 investigations, with 30 investigations randomly selected from each of the seven police districts and 30 investigations randomly selected from the remaining MPD assignments grouped together. The OIM and MPD worked together this quarter to provide the police practice experts with copies of the selected cases. During the course of the review, MPD and the OIM clarified that FIT and OCCR investigations would not be considered part of the sample. Accordingly, "replacement" investigations were identified for FIT and OCCR cases that were part of the original sample. The OIM worked very hard this quarter and completed their review of the sample. MPD looks forward to receiving feedback from the OIM on their review.

During the course of the review, the OIM also had questions regarding how the misconduct and use of force investigation files were maintained. Accordingly, OIA representatives met separately with Dennis Nowicki and Ron Davis of the OIM to discuss file maintenance issues. OIA found these meetings to be very beneficial. As a result of the meetings with the police practice experts, OIA has instituted several reforms, including a revised policy for establishing and maintaining the investigation files. In response to suggestions from the OIM, OIA has replaced the manila folders used to store investigations with sturdy, pressboard, two-prong files with labels that are clearly visible. OIA has also developed specific instructions for assembling the files to ensure that the complaint summary (CS) sheet is clearly visible and that all other documents are placed in chronological order. OIA also reinforced to its operations staff that any time a file is accessed, it should be reviewed for completeness. An example CS file folder is included as an attachment to this report. The folder also contains the August 26, 2003 OIA policy, "Policy and Procedures for Establishing and Maintaining Complaint System (CS) Chain-of-Command Investigative Files."

In addition to the reforms outlined above regarding file assembly, MPD has also developed a formalized case file check out system and has limited access to the file

room. OIA is also exploring the development of a "CS Integrity Sheet." The sheet would be in checklist format and would contain relevant MOA requirements.⁷ MPD is hoping to base this check sheet on the "MPD Investigations Review Database" developed by the OIM. MPD feels that use of the check sheet will help to ensure that all MOA-required information is contained in investigations prior to their final approval.

During this quarter, the Office of Internal Affairs also continued to provide monthly updates to the OIM regarding the Complaint Summary (CS) Database. MPD's Office of Internal Affairs is committed to implementing the remaining reforms contained in the MOA and looks forward to continuing its work with the Office of the Independent Monitor.

P o l i c e C a n i n e T e a m s

On May 4, 2000 the Metropolitan Police Department implemented an interim canine policy and began the initiation of significant improvements in its canine operations. The Department of Justice acknowledged these improvements in Paragraph 44 of the Memorandum of Agreement. DOJ approved MPD's *Canine Teams General Order*, and that policy was implemented in October 2002.

MPD is pleased with the progress of the implementation of the new *Canine Teams General Order*, and is extremely satisfied with the creation of the new *Canine Operations Manual*. However, as previously reported, the Office of Professional Responsibility conducted an assessment of MPD police canine incidents that occurred since the institution of the second Force Investigation Team in January 2002. While the overwhelming number of canine bites were justified and within policy, the assessment did raise some questions concerning on-lead canine bites and warning announcements related to canine deployment. Further, issues were raised concerning the shifts and squads involved in canine bite incidents. In response to these concerns, the Commander of the Special Operations Division (SOD) began to institute changes within the Canine Unit. The OIM also raised several concerns in their April 2003 quarterly report.⁸

During the previous quarter, meetings were held between the Department of Justice and the MPD to discuss these canine issues and to explore possible revisions to the approved *Canine Teams General Order*. Accordingly, MPD submitted a revised *Canine Teams General Order* to the Department of Justice for review on June 4, 2003. DOJ provided comments on the revised order on July 25, 2003. In their July 25, 2003 letter, DOJ also promised to provide specific recommended policy revisions that DOJ believes

⁷ An example of an item on the checklist would be "Were witness canvasses conducted?" (MOA paragraph 81f)

⁸ Fourth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department, April 29, 2003.

are consistent with the Memorandum of Agreement requirements and the parties' understanding of the Agreement. On September 30, 2003, DOJ provided the policy recommendations to further guide MPD's revisions of the *Canine Teams General Order*. MPD is currently reviewing those suggested revisions.

In addition to the general order, MPD also submitted its comprehensive Canine Lesson Plan and Training Curriculum to DOJ on October 4, 2002 (MOA Paragraph 145). The *Canine Operations Manual* was also developed (MOA Paragraph 147). A draft of the manual, which institutionalizes almost all MPD canine issues into one document, was completed and submitted to DOJ on November 27, 2002. DOJ provided comments on both the training curriculum and the manual on September 30, 2003. MPD is currently reviewing DOJ's suggestions.



Example MPD Canine Unit Training Card Showing MPD Canine Sonny.

The Canine Unit is continuing to explore the development of scenarios for the Range 2000 training system (a computer based simulator) that will help the handler make split-second decisions during deployment situations. This exercise will use the same technology that is currently employed by the range staff to assist officers in making deadly force decisions.

Additionally, to enhance community relations, the Canine Unit is continuing its

community educational campaign. In order to increase the interaction between MPD handlers and City youth, MPD purchased trading cards for each MPD canine team this quarter. The information on the back of the cards helps the unit disseminate valuable information about the purpose of the canine and how to react when approached by a canine, as well as crime solving tips. A sample trading card appears above.

The Canine Unit has also continued to work with the CMT to provide information to both DOJ and the OIM. The Canine Unit invited both DOJ and the OIM to observe the canine physical agility test that took place on July 9, 2003. The Canine Unit is also providing the Canine Tactical Deployment Database to the OIM on a monthly basis.

MPD's Canine Unit continues to be committed to ensuring that their policies and practices adhere to the requirements and to the spirit of MOA. The Canine Unit will be working with the CMT during the next quarter to review DOJ's comments on the various canine deliverables and to begin completing any necessary revisions.

Training

Training and education are key aspects of the Metropolitan Police Department's Use of Force management. Accordingly, the Maurice T. Turner Institute of Police Science (IPS) is tasked with the responsibility to train members of the Department on the reengineered MPD policies (MOA Paragraphs 84 and 129).

IPS has continued its efforts regarding compliance with the MOA. During this quarter, IPS completed Fiscal Year (FY) 2003 In-Service Training. Over 2,800 officers, sergeants, lieutenants and captains were trained during FY 2003 in-service training on MOA-required topics (MOA paragraphs 84 and 129). MPD also continued its work on revising various lesson plans. Pursuant to MOA Paragraph 119 and 122, MPD submitted eleven (11) lesson plans that comprise its use of force curriculum to DOJ on July 24, 2002. The following lesson plans were submitted:

During this quarter, IPS completed Fiscal Year (FY) 2003 In-Service Training. Over 2,800 officers, sergeants, lieutenants and captains were trained during FY 2003 in-service training on MOA-required topics.

- ASP Tactical Baton Training Program– **DOJ APPROVED (09-30-03)**
- Close Quarter Combat– **DOJ APPROVED (09-30-03)**
- Controlled F.O.R.C.E. – **DOJ APPROVED (09-30-03)**
- Ground Fighting – **DOJ APPROVED (09-30-03)**
- Handcuffing – **DOJ APPROVED (09-30-03)**
- Krav/Maga – **DOJ APPROVED (09-30-03)**
- OC Spray
- Officer Street Survival
- Pistol Qualification – **DOJ APPROVED (09-30-03)**
- Use of Force Continuum
- Verbal Judo

Additionally, IPS completed development of sixteen (16) lesson plans in September 2002 for in-service training. The following lesson plans were created and forwarded to DOJ:

- Administrative Misconduct Investigation Policy & Procedures using the Preponderance of Evidence Standard
- Arrest, Custody, and Restraint Procedures
- Bias-related Hate Crimes – **DOJ APPROVED 05-16-03**
- Canine Policies and Procedures
- Command Accountability – **DOJ APPROVED 11-25-02**
- Communication and Interpersonal Relationship Skills – **DOJ APPROVED 11-25-02**
- Crime Scene Preservation – **DOJ APPROVED 05-16-03**
- Cultural Diversity and Sensitivity Awareness

- Defensive Tactics – **DOJ APPROVED 05-16-03**
- Ethics, Integrity, and Professionalism – **DOJ APPROVED 11-25-02**
- Interview and Interrogation
- Theories of Motivation and Leadership – **DOJ APPROVED 11-25-02**
- Use of Force and Use of Force Continuum (with manual)
- Use of Force Incident Report Form
- Use of Force Review Board
- Verbal Judo Recertification – **DOJ APPROVED 11-25-02**

As noted above, many of the lesson plans were subsequently approved by DOJ. DOJ provided comments on both the In-Service Lesson Plans and on the Use of Force Curriculum Lesson Plans on November 25, 2002. On March 19, 2003, MPD submitted ten (10) revised lesson plans to DOJ. DOJ provided comments on May 16, 2003 on the lesson plans that were submitted. MPD is currently working on incorporating those comments.

DOJ also provided updates regarding various outstanding IPS-related deliverables on September 30, 2003. DOJ provided written approval for seven use of force lesson plans pursuant to MOA paragraph 119 and 122 as outlined above. DOJ also requested a copy of the semi-annual review of use of force curricula from June 30, 2003 (MOA paragraph 119). A copy of the review was provided to the OIM and to DOJ on September 30, 2003. A copy of that review can also be found in the appendix of this report.

Paragraphs 136 and 137 of the MOA require MPD, in part, to develop and implement a formal instructor training course, subject to the approval of DOJ, to ensure that instructors receive adequate training to enable them to carry out their duties. Based on the renegotiated dates of the first modification of the MOA⁹, MPD notified DOJ on December 31, 2002 that in lieu of contracting with a new vendor for the Instructor Certification Program, IPS had evaluated and selected the State of Maryland Police and Corrections Training Commission Enhanced Instructor Certification Course as the means for complying with paragraphs 136 and 137 of the MOA. MPD feels that the benefits of selecting this program include the ability to have instructors certified in a timely fashion as certification courses are offered every month. MPD also anticipates a cost-savings by using Maryland's program as MPD will pay on a per student basis. On September 30, 2003, DOJ notified MPD that it is requesting that the OIM observe and evaluate the Maryland program to ensure compliance with the MOA. MPD looks forward to the OIM's comments on this program.

As part of their September 30, 2003 correspondence, DOJ also requested an update from MPD regarding MOA Paragraph's 134 and 135, dealing with the IPS staffing assessment and instructor selection criteria respectively. MPD is currently working on

⁹ See "Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002," paragraph 7.

providing that update. DOJ also provided comments on MPD's Field Training Officer (FTO) protocol (MOA paragraph 121f) as part of their September 30, 2003 correspondence. We appreciate DOJ's efforts in providing comments on these outstanding deliverables, and MPD will be working during the next quarter on providing responses to DOJ.

During this quarter, the OIM also requested various materials from IPS regarding their MOA compliance. The request included:

Management Oversight

- Copies of training reports submitted to DOJ and the OIM as required in paragraph 119 of the MOA.
- Copies of all training course and instructor evaluation and/or audit sheets completed by the CDS.
- Copies of all training course evaluation sheets completed by students (or a log or copy of where the results are captured).
- Listing of all use of force training courses offered since the adoption of the MOA.
- Copies of all current use of force lesson plans
- Listing of all use of force instructors at IPS and a copy of their training record
- Copies of all roll-call curricula developed by the CDS
- Copies of the established procedures for evaluating all training

FTO Program

- Listing of all FTOs and a copy of their training records (TMS).
- Copies of any training guide used by FTOs

IPS prepared a response to this request on September 30, 2003. The response included all referenced items that were available in electronic copy as well as an invitation to review those items that were only available in hard copy onsite at IPS. A copy of the September 30, 2003 response is included in the appendix of this report.

As previously noted, IPS representatives also met with OCCR during this quarter to discuss the MPD OCCR Memorandum of Understanding (MOU). IPS agreed to provide specialized training on use of force to members of the Citizen Complaint Review Board (CCRB) and OCCR complaint examiners. This training will aid both CCRB and the complaint examiners in their duties. IPS also developed a draft curriculum for OCCR investigators (MOA paragraph 96). IPS and OCCR will continue to work toward finalizing that curriculum during the next quarter. IPS also requested that OCCR send representatives to informal sessions with MPD recruits in order to discuss OCCR's mission and responsibilities. IPS and OCCR expect to begin those sessions during the next reporting period. Finally, IPS met with the CMT during the last quarter to discuss various issues surrounding MOA compliance and plans to continue those meetings as needed. IPS is continuing its efforts to ensure full compliance with the MOA.

Personnel Performance Management System

The Metropolitan Police Department and the District of Columbia have committed to develop and fully implement the Personnel Performance Management System (PPMS), a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of the Police Department and its personnel. The computerized data compiled as part of the PPMS will be used regularly and affirmatively by the Metropolitan Police Department to promote civil rights integrity and best professional police practices.

As previously reported, MPD acknowledged that it had not met the original PPMS timetables set forth in the agreement, and Chief Ramsey was not satisfied with the progress made on the project. He recognized that the Department's efforts in this area needed to be enhanced.

Accordingly, Chief Ramsey reorganized the MPD Information Technology Division (MPD-IT), and appointed a new Chief Information Officer (CIO) who reports directly to him. In turn, the CIO appointed a Director for the PPMS project to ensure that the PPMS program is treated as a priority. The Director of the PPMS Project has established and staffed a Project Management Office (PMO) for PPMS that is devoted to acquiring the PPMS system and ensuring that PPMS is implemented effectively. Chief Ramsey has also taken an active role in personally overseeing the project.

As noted earlier, MPD continued to devote significant time and resources to PPMS efforts this quarter. MPD is pleased to announce that as a result of these efforts, DOJ, MPD, and the City agreed to the second modification to the MOA that provided revised deadlines for all PPMS-related MOA deliverables. A copy of the modification is included as an appendix to this report. MPD and DOJ have been working for some time on completing the modification. MPD thanks DOJ for their continued efforts with regard to completing the modification. Part of the delay in providing final dates for the modification to the MOA was due to MPD's desire to select the vendor and to have the vendor's project plan prior to committing to new dates. Completion of these activities during this quarter enabled MPD to provide firm dates to DOJ.

In addition to the signing of the modification, MPD engaged in a myriad of PPMS-related activities this quarter. During the month of July, MPD worked with DOJ to obtain approval on a revised Statement of Work (SOW) (MOA paragraph 114a). The SOW was submitted to DOJ for review on July 10, 2003. DOJ's technical expert provided comments on the SOW on July 11, 2003 and requested that MPD provide a revised SOW with comments by July 16, 2003. MPD provided the revised SOW by July 16, 2003. MPD and DOJ worked together to revise the SOW, and MPD issued an Amendment to the SOW containing DOJ's suggested edits.

MPD also appointed a PPMS Vendor Selection Committee that was tasked with reviewing vendor proposals and selecting a vendor. The selection committee was composed of nine (9) MPD members with representation from the following MPD units:

- PPMS Project Management Office, Office of Information Technology
- Institute of Police Science
- Office of Organizational Development
- Operations Command, Sixth District
- Corporate Support
- Office of Professional Responsibility

The Department of Justice also served as an advisor to the Selection Committee and provided comments regarding the vendor proposals.

The Vendor Selection Team held a Bidder's Conference on July 17, 2003. The purpose of the Bidder's Conference was to give vendors an opportunity to ask questions and receive clarifications regarding the Statement of Work prior to submitting their proposals. The Vendor Selection Team then received the completed proposals and began their review process on July 25, 2003. Part of the review process included holding a "Live Test Demonstration" (LTD) for selected vendors. The LTD was held on August 15, 2003, and it allowed members of the Vendor Selection Team to create MPD-specific scenarios for different processes that PPMS would need to accommodate (e.g. how does the system collect and track information regarding a use of force incident). The vendor was given a copy of the scenarios and demonstrated their product's capabilities for handling each of the scenarios. DOJ and their technical expert reviewed MPD's scenarios and also attended this session.

The Vendor Selection Team reached a decision and formally selected CRISNet Incorporated, in partnership with IBM, to develop the PPMS system. Pursuant to MOA paragraph 114b, MPD notified DOJ of its selection on September 16, 2003. MPD was very pleased to complete the vendor selection process on schedule, in part to help determine firm, realistic dates for the second modification to the MOA. MPD wanted to ensure that we had the vendor's commitment to meeting all PPMS deadlines in the modification. MPD felt it was important to have that commitment and a vendor project plan, prior to finalizing the modification to the MOA. MPD was able to work with the vendor through the negotiation process to provide firm dates for all MOA items, and was able to obtain approval for the dates from DOJ on September 29, 2003. As stated above, the finalization of the dates allowed MPD and DOJ to complete the modification to the MOA, removing MPD from breach status.

MPD also submitted several PPMS-related MOA deliverables during this reporting period. Paragraph 108 of the MOA requires:

"MPD shall prepare for the review and approval of DOJ, and thereafter implement, a plan for inputting historical data into PPMS (the "Data Input Plan").

The Data Input Plan shall identify the data to be included and the means for inputting such data (direct entry or otherwise), the specific fields of information to be included, the past time periods for which information is to be included, the deadlines for inputting the data, and the responsibility for the input of the data. The Data Input Plan shall include historical data that are up-to-date and complete in PPMS."

MPD submitted its Data Input Plan to DOJ on July 18, 2003. A copy of the Data Input Plan is included as an appendix to this report. DOJ provided comments on the plan August 1, 2003. MPD is currently reviewing those comments. MPD also submitted plans for compliance with MOA paragraphs 107, 109, and 110 on August 29, 2003. In its submission, MPD informed DOJ that the requirements of MOA paragraphs 107, 109, and 110 were detailed in the Statement of Work (SOW), previously submitted to DOJ, and were listed in the SOW as being "mandatory" requirements. MPD intends to make clear to the vendor that these requirements must be met. Also, DOJ, MPD, and the Office of the Independent Monitor will be taking part in the beta testing of PPMS and will be able to ensure that the selected software meets these requirements. DOJ provided comments on MPD's submission on September 30, 2003, and has requested additional information regarding paragraphs 107 and 109. MPD is currently reviewing these comments.

MPD is continuing work on the development of the PPMS Protocol (MOA Paragraph 111). MPD notified DOJ on April 4, 2003 that although substantial progress was made on a working draft of the protocol, internal staffing raised numerous policy issues that needed to be addressed. The PPMS Project Team has been tasked with addressing these issues and submitting policy recommendations to the PPMS Steering Committee and to the Chief of Police. Although MPD initially proposed September 19, 2003 as a date for submission of the initial draft of the PPMS protocol, MPD requested additional time to complete the draft. MPD had decided to hold a brainstorming session called a "Transformation Session" on September 24, 2003 to discuss MPD's vision and mission for PPMS. MPD felt it would be inappropriate to submit a draft protocol prior to the session taking place. The details of the Transformation Session are discussed below. In response to MPD's request, DOJ approved a revised submission date of November 18, 2003 for the initial draft of the PPMS Protocol and June 25, 2004 as the date for submission of the final draft for approval.

MPD requested an "initial" submission date of November 18, 2003 because we feel it is very important to begin the review process of the PPMS protocol as soon as possible to ensure that the protocol is approved when the system becomes operational. However, MPD also had concerns in submitting a protocol for approval over a year before the system will be implemented.¹⁰ While MPD appreciates DOJ's concerns in receiving final products for review, MPD also knows that the required protocol will change and grow

¹⁰ The system is scheduled to be fully operational on February 25, 2005.

over the course of PPMS development. Accordingly we requested using a technical assistance approach (TA) to having DOJ review the protocol. This approach will enable MPD to obtain feedback for the protocol as it continues to be developed over the next year. MPD plans to form a subgroup of PPMS Team members that will focus on completing the general order for its submission to DOJ.

During this quarter, MPD also continued its practice of holding weekly meetings with Chief Ramsey, the CIO, the PPMS Project Director, and the PPMS Steering Committee so that the Chief can be briefed on progress with PPMS efforts. The Steering Committee is composed of command staff members of MPD that will provide guidance and oversee the work of the PPMS Project Team.

The PPMS Project Management Office also continued its practice of holding weekly team meetings to discuss PPMS implementation issues. Both DOJ and the OIM are invited to, and frequently attend, these weekly team meetings. The main purpose of the team meetings is to ensure that all of the Department stakeholders are kept informed as MPD moves forward with PPMS. Among the MPD units represented at the Team meetings are the CMT, the Institute of Police Science, Human Services, the Office of Organizational Development, the Office of Quality Assurance, and the Office of the General Counsel. MPD has also included representation from the Fraternal Order of Police (FOP) as well as a representative from one of the MPD civilian bargaining units. MPD feels it is very important to include the perspectives of the bargaining units in developing this system.

PPMS Vision

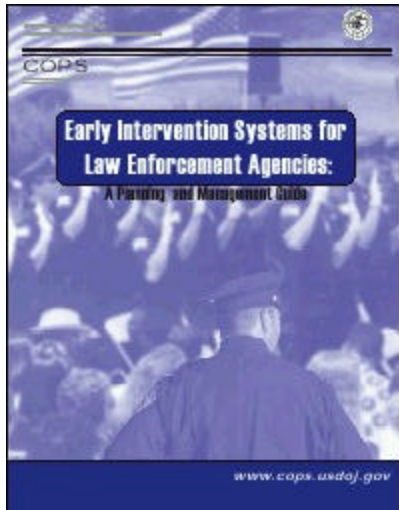
To promote and maintain the highest professional standards of performance and accountability while fostering a relationship of trust with all members of the MPDC and the public.

PPMS Mission

To track performance in a fair and impartial manner in order to facilitate timely and effective support and guidance to all MPDC members.

In an effort to begin to obtain internal stakeholder buy-in for PPMS, MPD held a "PPMS Transformation Session" on September 24, 2003. Over the course of the last quarter, the PPMS Team raised concerns over how PPMS would impact the Department. Accordingly, the Team requested that a brainstorming session, referred to as a "transformation session," be held to discuss PPMS. The transformation session was conducted by Keane Consulting Group. To prepare for the session, Keane interviewed PPMS stakeholders to elicit what the stakeholders understood to be the goals and objectives of PPMS. The transformation session was a half-day event held offsite. Keane used the interviews as well as the MOA to create an operating model for PPMS

as well as a list of discussion items for the day. Members of the PPMS Team attended the session including representatives from the Office of Professional Responsibility, the Canine Unit, the Office of Organizational Development, the Office of Quality Assurance, and the Fraternal Order of Police. During the session, team members created a vision and mission statement for PPMS and also identified the core values for PPMS. The team also identified a list of "customers" that PPMS serves. Key outcomes and goals for PPMS were defined, and next steps for the project were identified. A copy of the "Transformation Session Outcomes" Overview is included as an appendix to this report.



Finally, members of the PPMS Team had an opportunity to meet with Dr. Samuel Walker, Ph.D., of the University of Nebraska at Omaha. Dr. Walker is considered to be one of the foremost experts in the country on early intervention systems like PPMS. His report, *"Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide,"*¹¹ was recently published by DOJ's Community Oriented Policing Services (COPS) Office. PPMS Team members met with Dr. Walker on September 12, 2003 while he was visiting the Police Executive Research Forum (PERF) in Washington, DC. Team members found this meeting to be very educational. Dr. Walker was able to provide a national perspective regarding early intervention systems and

provided the Team members with valuable insight into the system development process. Dr. Walker also stressed the importance of ensuring that all employees, especially first-line supervisors, are prepared for the roles and responsibilities they will have with the system. The PPMS Team has found Dr. Walker's report to be extremely useful as they move forward with the implementation of PPMS, and appreciates having had an opportunity to meet with him.

MPD achieved many substantial accomplishments this quarter in moving forward with PPMS including selecting a vendor to for system development, identifying a vision and mission statement, submitting additional MOA-required deliverables, and most notably, successfully negotiating a modification to the MOA with DOJ. MPD is very proud of the progress made on PPMS this quarter, and will continue to treat the implementation of the PPMS as a priority for the Department.

Performance Evaluation System

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* (MOA Paragraph 118) to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. MPD's Office of Human Services analyzed the

¹¹ Dr. Walker's report is available online at: <http://www.cops.usdoj.gov/mime/open.pdf?Item=925>.

recommendations provided by DOJ on May 2, 2003. In the majority of instances, the Department indicated that we accept the recommendations of the Department of Justice, and has committed to implementing those recommendations as it revises the *Performance Management System (PMS) for Sworn Members Serving in the Ranks/Positions of Officer, Agent, and Sergeant General Order*.

However, in accordance with Article 27 of the current Collective Bargaining Agreement between the Metropolitan Police Department and the Fraternal Order of Police, the Department must give notice of any recommended changes to its performance evaluation systems to the FOP.

MPD also notified DOJ that with regard to all of the recommendations of the Department of Justice that pertain to MPD's Performance Management Program (PMP), MPD will need to pursue any changes with the D. C. Office of Personnel. The PMP is a citywide performance evaluation system that was developed under city contract by the consulting firm of Deloitte and Touche.

Department of Justice

Since the creation of the Compliance Monitoring Team in February 2002, there has been significant, sustained interaction between the Metropolitan Police Department and the Department of Justice. Notwithstanding telephone calls and correspondence, there have been numerous other contacts between the two agencies in order to continue the established dialogue.

DOJ has provided MPD with assistance by facilitating interaction with both the Office of Citizen Complaint Review and the United States Attorney's Office for the District of Columbia. DOJ has also devoted substantial time and resources to work on the PPMS MOA negotiations that took place this quarter.

DOJ devoted substantial time and resources to work on the PPMS MOA negotiations that took place this quarter.

During this reporting period, representatives from MPD and DOJ met at the monthly "all-hands" meeting held at the Office of the Independent Monitor, as well as monthly DOJ and CMT Meetings that are held on the third Thursday of every month.

MPD and DOJ have continued regular communications through these meetings, telephone conversations, conference calls, and correspondence. The level of cooperation between the MPD and DOJ remains high. DOJ has also provided a representative to the PPMS Project Team. MPD is extremely pleased with the relationship that exists with the U.S. Department of Justice. The Metropolitan Police

Department will continue its partnership with the Department of Justice to jointly complete the requirements of this Memorandum of Agreement.

F r a t e r n a l O r d e r o f P o l i c e

The Fraternal Order of Police (FOP) is the Labor Union for all police officers, technicians, detectives, and sergeants on the Metropolitan Police Department. The Metropolitan Police Department recognizes the importance and value of including the FOP in Memorandum of Agreement endeavors.

However, the relationship between MPD and the FOP has been challenging. The FOP had initially declined to participate in MOA-related endeavors, and has previously filed an Unfair Labor Practice (ULP) Complaint against the Metropolitan Police Department with the District of Columbia Public Employees Relations Board (PERB). The Labor Union cited alleged changes in terms and conditions of employment relating to the Memorandum of Agreement as the reason for the filing.

As previously reported, the PERB stated that the filing of the Unfair Labor Practice charge fell outside of the 120-day window established by PERB Rule 520.4 for filing such charges. The Hearing Examiner did not address the merits of the case.

However, MPD continues its efforts to keep the FOP informed regarding the MOA. On July 3, 2003, members of the CMT met with FOP leadership to discuss the status of the MOA and PPMS. MPD found the meeting useful, and hopes to continue the meetings on a regular basis.

The FOP was also invited to attend the weekly PPMS Team meetings. Thus far, the FOP representative has attended the weekly meetings, including the PPMS Transformation Session discussed above. MPD has found the input provided by the FOP to be very useful as the Department proceeds with PPMS implementation.

MPD also continued its discussions with the FOP regarding the Department's draft Discipline General Order (MOA paragraph 105). DOJ provided comments on the order on August 25, 2003. In the letter, DOJ stated that they "appreciate and commend the efforts of MPD and the local Fraternal Order of Police in working collaboratively to resolve their differences and to identify issues for collective bargaining." On September 16, 2003 a copy of that letter was shared with the FOP in a continued effort to work together.

MPD believes that the inclusion of the FOP in discussion of these issues as well as keeping them informed on MOA progress has been useful to both parties. MPD hopes to continue this process as we move forward with the MOA.

I n d e p e n d e n t M o n i t o r

The Memorandum of Agreement requires that the Metropolitan Police Department and the Department of Justice jointly select an Independent Monitor who will review, report, and assist on matters related to the Agreement's implementation (MOA Paragraph 161). On March 28, 2002, the Metropolitan Police Department and the law firm of Fried, Frank, Harris, Shriver & Jacobson jointly announced that Michael R. Bromwich had been selected as the Independent Monitor. Mr. Bromwich is a partner at the firm, and is head of the internal investigations, compliance and monitoring practice group there.

The Independent Monitor completes and disseminates quarterly progress reports regarding MPD's Memorandum of Agreement compliance efforts. The next report is scheduled to be completed later this month. Previous reports, are available at the Independent Monitor's website at www.policemonitor.org.

The Independent Monitor continues to host monthly "all-hands" meetings in which all MOA stakeholders meet, to include the Chief of Police, DOJ, the Office of Citizen Complaint Review, Office of the Corporation Counsel, and the Compliance Monitoring Team among others. These meetings occur on the first Monday of each month.

Additionally, the Compliance Monitoring Team has been assisting the OIM by facilitating document and meeting requests throughout the agency. MPD provides reports to both the OIM and DOJ regarding monthly use of force incidents and UFIR completion statistics. MPD also provides updated reports of the Complaint Summary (CS) Database and the Canine Tactical Deployment Database on a monthly basis.

During this reporting period, the Compliance Monitoring Team has been assisting the Independent Monitor to facilitate compliance activities including:

- Reviewing accuracy of PAMS data
- Reviewing chain of command investigations
- Reviewing Office of Internal Affairs investigations
- Reviewing FIT investigations
- Reviewing in-service and new recruit training
- Reviewing OC Spray investigations for OIM "OC Spray Special Focus"
- Reviewing Use of Force Incident Reports (UFIR)
- Tracking the development of new policies

During this quarter, the OIM spent a substantial amount of time reviewing the 240 cases selected as part of a random sample of MPD's use of force and misconduct investigations. The CMT and MPD's Office of Internal Affairs devoted significant time and resources this past quarter to providing the OIM with copies of the 240

The OIM, and especially the police practice experts, worked very hard to complete their review of the sample this quarter, and we commend them for their hard work. MPD looks forward to the analysis of their review.

investigations. Each case was also researched by MPD in order to make sure that it fell within the purview of the 240 sample. The OIM had previously decided that FIT and OCCR investigations should not be included as part of the sample. Accordingly, MPD needed to flag those cases, and the OIM subsequently identified replacement cases. The OIM, and especially the police practice experts, worked very hard to complete their review of the sample this quarter, and we commend them for their hard work. MPD looks forward to the analysis of their review.

As discussed earlier, the OIM has continued their efforts in defining how they will measure "substantial compliance" for the MOA. The MOA states that,

"The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained a substantial compliance for at least two years."¹²

The OIM held very productive meetings this quarter with representatives from both the CMT and DOJ to discuss how best to approach defining substantial compliance for each of the MOA paragraphs. The OIM drafted compliance definitions for 62 of the 194 paragraphs of the MOA and circulated the draft to both DOJ and MPD on September 5, 2003. The OIM plans to hold a meeting early during the next reporting period to discuss the draft and agree to next steps for completion of the definition. MPD looks forward to this document being issued as it will help ensure MPD's efforts are focused on ensuring compliance with all paragraphs of the MOA.

Finally, the Compliance Monitoring Team continues to closely monitor MPD's costs associated with the Office of the Independent Monitor. With the assistance of the D.C. Office of Contracting and Procurement and MPD's Accounts Payable office, the CMT continues to actively review OIM invoices to control costs and ensure accountability.

Conclusion

The Metropolitan Police Department is committed to completing the balance of reforms contained in the Memorandum of Agreement. We are pleased with the significant progress this quarter. During this reporting period, MPD and DOJ agreed to a modification to the MOA that set new deadlines for the delivery of PPMS deliverables and removed MPD from breach status. MPD also continued submitting MOA-required

¹² MOA Paragraph 182

deliverables to DOJ for review including the PPMS Data Input Plan (MOA paragraph 108), the revised Serious Misconduct General Order (MOA paragraph 72), and the revised FIT Manual (MOA Paragraph 57). MPD and DOJ also worked with the OIM in helping to define the substantial compliance standards for each paragraph of the MOA.

The Metropolitan Police Department is confident that it is well on its way to becoming fully compliant with the provisions of the MOA and becoming the national model on how to uphold the rule of law while using force only when and to the extent necessary.

Attachments

- *"Joint Modification No. 2 to the June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department,"* September 30, 2003
- *"MPD-DOJ Memorandum of Agreement Completion Matrix Report,"* September 30, 2003
- Letter from MPD to DOJ regarding *"Revised FIT Manual,"* MOA Paragraph 57, September 29, 2003
- Sample CS File Folder (Case 00-0000) (Note: available in hard copy only.)
- Semi-Annual Review of Use of Force Curriculum, MOA Paragraph 119, September 30, 2003
- Memo from Director, Institute of Police Science to Project Manager, Compliance Monitoring Team regarding *"Response to Information Request from the Office of the Independent Monitor,"* September 30, 2003.
- *"Preliminary Data Input Plan, Personnel Performance Management System (PPMS),"* MOA Paragraph 108, July 18, 2003.
- *"PPMS Transformation Session Outcomes Overview,"* September 26, 2003